

§ 1200.3

Solicitor means the Office of the Solicitor, Department of the Interior.

Special Trustee means the Special Trustee for American Indians appointed under title III of the Act.

Tribal council means the elected or appointed governing officials of any tribe which is recognized by the Secretary.

Tribe means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska Native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act which is federally recognized by the U.S. Government for special programs and services provided by the Secretary to Indians because of their status as Indians. For this purpose, it also means two or more tribes joined for any purpose, the joint assets of which include funds held in trust by the Secretary. An example of this would be the KCA (consisting of the Kiowa, Comanche and Apache Tribes).

Us means the Department of the Interior, i.e., the Secretary of the Interior or his/her designee.

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§ 1200.3 What is the Department's policy on tribal management of trust funds?

(a) We will give tribes as much responsibility as they desire for the management of their tribal funds that we currently hold in trust.

(b) Title II of the American Indian Trust Fund Management Reform Act, implemented by these regulations, offers tribes one approach for assuming increased management of their funds that we now hold in trust and administer. Under title II, a tribe may completely remove its funds from Federal trust status and manage them as it wishes, subject to the requirements and conditions in this part. When a tribe withdraws its funds under this part, it may invest those funds in equities or other investment vehicles that are statutorily unavailable to us.

25 CFR Ch. VII (4-1-05 Edition)

§ 1200.4 May tribes exercise increased direction over their trust funds and retain the protections of Federal trust status?

Yes. The Tribal Self-Governance Act (25 U.S.C. 458) and the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) provide other options for trust funds management. A tribe may choose to manage its trust funds under the provisions of these Acts if it wishes. These options are covered by 25 CFR part 900 (the "Indian Self-Determination and Education Assistance Act Program") and 25 CFR part 1000 (the "Self-Governance Program").

§ 1200.5 What are the advantages and disadvantages of managing trust funds under the options in § 1200.4?

Under these other options, the funds remain in Federal trust status and the tribe can exercise a range of control over their management. However, the tribe has fewer investment options than it has when it withdraws its funds completely from trust status. If a tribe chooses to keep its funds in trust status, the tribe is subject to the same statutory investment restrictions that bind us. That means that the tribe's investments are limited to bank deposits and securities guaranteed by the United States. (See 25 U.S.C. 162a for specific statutory investment restrictions.)

§ 1200.6 Do these regulations tell tribes how to receive future income directly rather than have the government continue to collect it?

No. These regulations apply only to the withdrawal of funds which are in trust. Some of these funds come from the sale or lease of trust resources. Even if a tribe withdraws its funds, we will collect and manage future income. If a tribe wishes to receive future income directly, it should contact the OST/OTFM staff at its agency or area office to find out how to do this.

§ 1200.7 Information collection.

The information collection requirements contained in subpart B of this part, Application to Withdraw Tribal Funds from Trust Status and subpart D of this part, Application to Withdraw

Tribal Funds from Trust Status-General and Specific Budget Technical Assistance, have been approved by the Office of Management and Budget under 44 U.S.C. 3507 *et seq.* and assigned clearance numbers 1035-001 (subpart B), and 1035-002 and 1035-003 (subpart D). Information collected in §1200.13 (How does a tribe apply to withdraw funds?) will be used to determine the eligibility of applicants, and the capability of tribes or their contractors to manage and invest large blocks of funds. Information collected in §1200.43, (How can a tribe apply for technical assistance?) will be used to determine the eligibility of applicants, as well as the level of need for technical assistance, in order for tribes to develop Management Plans and to complete the application for withdrawal process.

Subpart B—Withdrawing Tribal Funds From Trust

§ 1200.10 Who is eligible to withdraw their tribal funds from trust?

Any tribe for whom we manage funds in trust.

§ 1200.11 What funds may be withdrawn?

A tribe may withdraw some or all funds that we hold in trust if we approve a plan that it submits under this part.

§ 1200.12 What limitations and restrictions apply to withdrawn funds?

(a) A tribe may withdraw funds appropriated to satisfy judgments of the Indian Claims Commission (ICC) and the Court of Federal Claims and that we hold under the Indian Judgment Funds Use and Distributions Act (25 U.S.C. 1401) or another act of Congress if:

(1) The tribe uses the funds as specified in the previously approved judgment fund plan, and;

(2) The tribe withdraws only funds held for Indian tribes and does not include any funds held for individual tribal members.

(b) A tribe may withdraw funds appropriated to satisfy settlement agreements relating to certain tribal claims and that we hold and manage for the tribe pursuant to an act of Congress if:

(1) The tribe uses the funds as specified in the previously approved settlement act plan;

(2) The tribe withdraws only funds held for Indian tribes and does not include any funds held for individual tribal members; and

(3) It is determined that there is no provision in the act or settlement agreement requiring that the funds remain in trust to implement the act or agreement that cannot be waived.

(c) Tribal funds commonly known as “Proceeds of Labor” funds, usually income to trust resources, are generally withdrawn under normal tribal budgeting procedures, but may also be withdrawn from trust under this part. These funds may be returned to trust under the provisions of subpart C of this part.

§ 1200.13 How does a tribe apply to withdraw funds?

The tribe must submit four copies of its application and the attachments listed below to: Director, Office of Trust Funds Management, Department of the Interior, 505 Marquette NW, Suite 1000, Albuquerque, NM 87102. We will notify the tribe if the application is incomplete and will help the tribe complete the application if requested. When we determine that the application is complete, we will send copies to the appropriate agency superintendent and area director, the Special Trustee and the Solicitor. Each application package must contain the items listed below.

(a) Proof that the tribe has notified its members of its intent to remove funds from trust and that, when the request is approved, the tribe and not the United States Government will be liable for funds management. Notification must be by the method(s) that the tribe customarily uses to notify its members of significant tribal actions. The notification must identify the specific funds to be withdrawn.

(b) A tribal resolution that:

(1) Expressly authorizes the withdrawal of the funds and indicates the (approximate) dollar amount of the funds to be withdrawn;

(2) Expressly acknowledges that the funds, once withdrawn in accordance with the Act, will no longer be held in